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PTO/SB/97 (09-04)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Reply to Final Office Action (2 pgs, in duplicate)
Terminal Disclaimer (2 pgs)
Transmittal Form (1 pg)

8 PGS total including this sheet

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10/035,821

PTO/SB/21 (09-04)

Approved for use through 07/31/2008. OMB 0651-0031

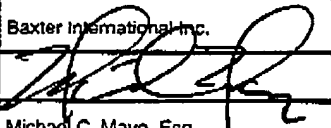
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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/035,821
	Filing Date	October 19, 2001
	First Named Inventor	Jane Werling
	Art Unit	1618
	Examiner Name	Simon J. Oh
Total Number of Pages in This Submission	7	Attorney Docket Number CPIFT-5657A-1 C1

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input checked="" type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input checked="" type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks _____		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Baxter International Inc.		
Signature			
Printed name	Michael C. Mayo, Esq.		
Date	April 28, 2005	Reg. No.	38,545

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I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature			
Typed or printed name	Susanne L. Grant	Date	April 28, 2005

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of:	Werling et al.)	
Serial No.:	10/035,821)	Art Unit: 1618
Filed:	October 19, 2001)	Examiner: Simon J. Oh
Title:	METHOD FOR PREPARING SUBMICRON SUSPENSIONS WITH POLYMORPH CONTROL)	Confirmation No. 2470
Docket No.:	CPIFT-5657A-1 C1)	

**RULE 1.116 RESPONSE TO FINAL OFFICE ACTION
AND
SUBMISSION OF TERMINAL DISCLAIMER**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This submission of a corrected Terminal Disclaimer, in order to comply with the requirement of form expressly set forth in the previous Office Action, is filed in response to the Final Office Action mailed April 12, 2005.

In the previous Office Action (December 8, 2004), the Examiner rejected claims 1-46 and 49-64 under the judicially created doctrine of Double Patenting as being unpatentable over Claims 1-108 of U.S. Patent No. 6,607,784; and provisionally rejected claims 1-46 and 49-64 under the Double Patenting doctrine as being unpatentable over Claims 1-15 and 18-21 of copending Application No. 09/874,499; Claims 1-99 of Application No. 09/874,637, now U.S. Patent No. 6,869,617; claims 1, 3-73, 75-77, and 110-118 of copending Application No. 09/953,979; and Claims 1-97 of Application No. 10/021,692, now U.S. Patent No. 6,884,436.

In response to the previous Office Action, Applicants timely filed a Terminal Disclaimer (January 20, 2005), disclaiming the terminal portion of the instant application that would extend

Application No. 10/035,821
Response to Final Office Action
Page 2

beyond the termination of the above-referenced patent and applications. As pointed out in the Final Office Action, however, the Terminal Disclaimer was defective in that it did not contain a clause stating the percentage of the petitioner's ownership right, title and interest of the instant application.

Applicants herewith submit a corrected Terminal Disclaimer now containing the clause of ownership of the instant application. The Terminal Disclaimer fee under 37 CFR 1.20(d) had been submitted previously with the January 20, 2005 response, however, the Commissioner is authorized to charge any additional fees, or credit any overpayment, to deposit account 02-1440. Two copies of this letter are enclosed for accounting purposes.

The submission of the Terminal Disclaimer is believed to moot the Examiner's rejection of the claims. Applicants therefore respectfully request reconsideration and allowance of the pending claims in the present application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael C. Mayo', with a stylized flourish at the end.

Michael C. Mayo
Registration No. 38,545
Attorney for Applicant

April 28, 2005

BAXTER INTERNATIONAL INC.
One Baxter Parkway, DF3-2E
Deerfield, IL 60015
847-948-2136
slg/

C O P Y

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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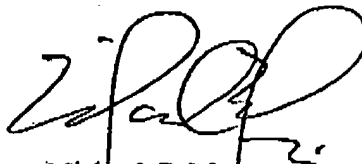
Application No. 10/035,821
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